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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE TRANSPACIFIC PASSENGER
AIR TRANSPORTATION
ANTITRUST LITIGATION**

Civil Case No. 3:07-cv-05634-CRB

MDL No. 1913

**This Document Relates To:

ALL ACTIONS**

**PLAINTIFFS' NOTICE OF
POST-DISTRIBUTION ACCOUNTING**

Plaintiffs hereby submit this Post-Distribution Accounting and the supporting Declaration of Joel K. Botzet (“Apr. 7, 2022 Botzet Decl.”) from Rust Consulting, Inc. (“Rust”), the Court-appointed claims administrator, pursuant to various orders¹ and this District’s Procedural Guidance for Class Action Settlements (“Guidance”). On March 17, 2022, Plaintiffs distributed the net settlement funds to eligible Class Members. Plaintiffs provide the following information on post-distribution accounting:

		Source
Total Net Settlement Fund	\$104,388,254.38 ²	Mar. 8, 2022 Botzet Decl. ¶ 24.
Total Number of Class Members	61,770 Class Members authorized for payment, totaling 29,963,888 qualifying tickets.	<i>Id.</i> ¶¶ 23, Exs. C-D.
Total Number of Class Members to Whom Notice Was Sent and Not Returned as Undeliverable	<p><u>Round 2 Settlements</u> Postcard notice was sent to 45,406 potential Class Members, of which 44,782 were not returned as undeliverable.</p> <p><u>Round 3 Settlement</u> Email notice was sent to 47,328 potential Class Members, of which 42,412 were not returned as undeliverable; mail notice was sent to 7,834 potential Class Members for whom email addresses</p>	Apr. 7, 2022 Botzet Decl. ¶ 5.

¹ See Order Granting Plaintiffs’ Motion to Distribute Settlement Funds and Overruling Objection (ECF No. 1327); Order Granting Plaintiffs’ Administrative Motion to Extend Deadline to Distribute Net Settlement Funds (ECF No. 1329); Order Granting Plaintiffs’ Administrative Motion to Correct Declaration of Joel Botzet Re: Claims Administration and Distribution of Net Settlement Funds (ECF No. 1331).

² This figure represents the net settlement funds available for distribution. See Corrected Declaration of Joel K. Botzet Re: Claims Administrator and Distribution of Net Settlement Fund ¶ 24 (ECF No. 1330-1) (“Mar. 8, 2022 Botzet Decl.”). The amount of the initial distribution was \$104,387,320.59 due to rounding to the nearest cent when calculating the *pro rata* share per qualified claim. *Id.*

	were unavailable, of which 7,259 were not returned as undeliverable. ³	
Number of Claim Forms Submitted	96,133	Mar. 8, 2022 Botzet Decl. ¶¶ 6, Ex. D
Percentage of Claim Forms Submitted	Not applicable ⁴	
Number and Percentage of Opt-Outs	Round 1 Settlements: 1 Round 2 Settlements: 1 Round 3 Settlement: 0	<i>See, e.g.</i> , Plaintiffs' Motion for Final Approval of Round 1 Settlements at 3 (ECF No. 999); Plaintiffs' Motion for Final Approval of Round 2 Settlements at 2 (ECF No. 1234); Plaintiffs' Motion for Final Approval of Round 3 Settlement at 2 (ECF No. 1308).
Number and Percentage of Objections	Round 1 Settlements: 1 Round 2 Settlements: 1 Round 3 Settlement: 0	<i>See, e.g.</i> , Plaintiffs' Motion for Final Approval of Round 1 Settlements at 3 (ECF No. 999); Plaintiffs' Motion for Final Approval of Round 2 Settlements at 2-3 (ECF No. 1234); Plaintiffs' Motion for Final Approval of Round 3 Settlement at 2 (ECF No. 1308).
Average Recovery Per Claimant	\$1,689.93	Mar. 8, 2022 Botzet Decl., Ex. D
Median Recovery Per Claimant	\$43.52	<i>Id.</i>
Largest Amount Paid to Class Members	\$4,582,006.74	<i>Id.</i>
Smallest Amount Paid to Class Members	\$1.12	<i>Id.</i>
Method(s) of Notice	A combination of Direct Notice, Travel Agency Notice, Paid Media	<i>See, e.g.</i> , Declaration of Shannon Wheatman, Ph.D. in Support of

³ These figures reflect email and postcard/mail notice provided to potential class members in connection with the Rounds 2 and 3 Settlements.

⁴ This figure cannot be calculated because the notice program for the Round 1 Settlements primarily involved media notice.

	Notice, Earned Media, Settlement Website (airlinesettlement.com), Toll-Free Phone Number, and/or Post Office Box depending on the round of settlements	Plaintiffs' Motion for Approval of Notice Program and Notice Forms ¶¶ 9-40 (ECF No. 1297-3)
Method(s) of Payment to Class Members	Check by mail or wire transfer	Mar. 8, 2022 Botzet Decl. <i>Id.</i> ¶ 28

The Guidance also requests the number and value of checks not cashed and the amounts distributed to each *cy pres* recipient. Given that Plaintiffs only distributed the Net Settlements Funds on March 17, 2022 and the check void date is June 15, 2022, information regarding the number and value of checks not cashed is unavailable at this time. After the check void date, Plaintiffs will provide a further summary to the Court regarding what Net Settlements Funds remain uncashed. If there are sufficient funds available to perform a secondary distribution of the remaining Net Settlement Funds to Class Members who cashed their checks, Class Counsel and Rust anticipate making such a recommendation to the Court. If the remaining Net Settlement Funds as of the void date are insufficient to make a secondary redistribution economically feasible, Plaintiffs will propose an appropriate *cy pres* recipient at that time with ultimate approval from the Court.

The Guidance further requests information regarding administrative costs, the attorneys' fees and costs, the attorneys' fees in terms of percentage of the settlement fund, and the multiplier, if any. Plaintiffs previously provided information regarding administrative and attorneys' costs in connection with the Joint Declaration in Support of Plaintiffs Motion for Award of Attorneys' Fees and Reimbursement of Expenses ¶¶ 83-86, 94-100, Ex. 6 (ECF No. 1307-2). Regarding attorneys' fees, the Court granted a cumulative award of \$34,164,648.14.⁵ This award represents

⁵ \$34,164,648.14 is the sum of (1) \$9 million, or 28.86%, in fees that the Court granted from the Round 1 Settlements, resulting from calculated net settlement funds of \$31,181,800.27 (ECF No. 1009), (2) \$11,038,071.51, or 22.54%, in attorneys' fees that the Court granted from the Round 2 Settlements, resulting from calculated net settlement funds of \$48,970,485.79 (ECF No. 1252),

23% of the total settlement fund of \$148,152,000 and 25% of the net settlement funds of \$136,658,592.58.⁶ The award also represents a cumulative negative multiplier of -0.75 based on work performed through July 31, 2019.⁷ Plaintiffs have incurred additional lodestar since July 31, 2019 in connection with seeking final approval of the ANA settlement, claims administration, and settlement distribution; however, Plaintiffs have not accounted for this additional lodestar in the multiplier calculation.

As stated, *supra*, once the check void date has passed, Plaintiffs will provide an update to the Court regarding any remaining Net Settlement Funds and will provide a further recommendation as to whether a secondary redistribution of the remaining Net Settlement Funds, or a *cypres* award, is appropriate.

Pursuant to the Guidance, Plaintiffs will post this Post-Distribution Accounting on the settlement website (airlinesettlement.com). Plaintiffs are available for a hearing on the Post-Distribution Accounting if the Court wishes.

Dated: April 7, 2022

Respectfully submitted,

/s/ Adam J. Zapala

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and (3) \$14,126,576.63, or 25% in attorneys' fees that the Court granted from the Round 3 Settlement, resulting from calculated net settlement funds of \$56,506,306.52 (ECF No. 1314).

⁶ *Id.*; see also Plaintiffs' Motion for Award of Attorneys' Fees and Reimbursement of Expenses at 1 (ECF No. 1307-2).

⁷ \$34,164,648.14 is a -0.75 multiplier of \$45,152,522.00, which is Plaintiffs' lodestar from March 28, 2008 through July 31, 2019. See Plaintiffs' Motion for Award of Attorneys' Fees and Reimbursement of Expenses ¶¶ 92, fn. 92, Ex. 5 (ECF No. 1307-2).

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